



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/240,147 05/10/94 DINKINS

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CHIN, W EXAMINER

26M1/0321

ART UNIT PAPER NUMBER

PATRICK T. KING
36 SEASCAPE VILLAGE
APTOS, CA 95003-6101

2603

DATE MAILED: 03/21/95

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 12-12-94 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 35-47 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☒ Claims 2-34 have been cancelled.
3. ☒ Claims 47 are allowed.
4. ☒ Claims 1, 35-46 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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1. Claims 1 and 35-46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 5,388,101. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claimed invention is a variation of the claimed invention of the co-pending application wherein the base station is not explicitly recited as being a repeater but this would have been obvious in light of the function that the base station performs which including retransmission facilities.

2. Claim 47 is allowable over the prior art of record.

3. The terminal disclaimer filed on December 12, 1994 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent 5,388,101 has been reviewed and is NOT accepted for the following reason(s):

a. An attorney, whether registered or not, is not authorized to sign a terminal disclaimer in the capacity as the attorney for the assignee or inventor(s). It should be noted that it would be acceptable for a person, other than a recognized officer, to execute a terminal disclaimer, provided the terminal disclaimer also includes both of the following:

1) a statement that the person is empowered to act on behalf of the organization,
and

2) the standard declaration under Title 18 of the U.S. Code, e.g., -

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

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1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Accordingly, a new terminal disclaimer which includes both enumerated items will be considered to be executed by an appropriate officer of the assignee.

b. There is no documentary evidence of a chain of title from the original inventor(s) to the assignee, nor is it specified (by reel and frame number) where such documentary evidence is recorded in the Office. 37 CFR 3.73(b).

c. There is no statement by the assignee specifying that the evidentiary documents have been reviewed and certifying that, to the best of the assignee's knowledge and belief, title is in the assignee seeking to take action. 37 CFR 3.73(b).

4. Since, the terminal disclaimer is not proper for the reasons set forth above, the obviousness-type double patenting rejection is maintained.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

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***** NOTICE *****

ANY AMENDMENT OR REQUEST FOR RECONSIDERATION IN RESPONSE TO THIS FINAL OFFICE ACTION SHOULD BE DIRECTED TO:

Commissioner of Patents and Trademarks

BOX AF

Washington, D.C. 20231

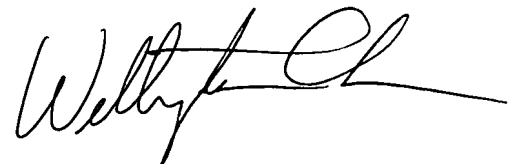
By addressing all After Final Office action responses to the above address, processing time of the responses is reduced. This will result in more timely responses by the Office and should result in fewer requests for extensions of time.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wellington Chin whose telephone number is (703) 305-4366. The examiner can normally be reached Tuesday - Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms, can be reached on (703) 305-4703. The fax number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

W.Chin
(703)305-4366
3/20/95



WELLINGTON CHIN
PRIMARY EXAMINER
GROUP 2600